

0048

*Outgoing*  
*4/8/15/0025*

**From:** Dana Dean  
**To:** mark.reynolds@hiawathacoal.com  
**CC:** Angela Nance; Daron Haddock; Jim Smith; John Baza; Steve Alder  
**Date:** 11/24/2008 3:57 PM  
**Subject:** Bear Canyon Transfer  
**Attachments:** Bear Canyon Reclamation Agrmnt & Surety Rider

*Q*

Mark,

After further discussion with our attorney, it seems that the best way to go about this is to include a provision in the rider that the change of Principal will take place immediately upon approval of the permit transfer.

Please be sure to get the rider, as well as all other information Angela Nance asked for in her attached email to us by the end of business on December 1, 2008. Otherwise we may be forced to issue a Cessation Order for the Bear Canyon Mine, which would require you to interrupt mining operations until you have complied with our request.

Please let me know if you have questions.

Thank you,

Dana Dean, P.E.  
Associate Director - Mining  
Utah Division of Oil, Gas, and Mining  
(801) 538-5320  
danadean@utah.gov

**From:** Angela Nance  
**To:** efinley@efinley.com; mreynolds@cwminning.com  
**CC:** Dana Dean; Daron Haddock; Steve Alder  
**Date:** 11/20/2008 4:29 PM  
**Subject:** Bear Canyon Reclamation Agrmnt & Surety Rider  
**Attachments:** BearRecAgrmnt.pdf; Exhibit\_DBEAR.doc; Exhibit\_EupdateO&DBEAR.doc; AFFIDAVI.  
QUA.doc

As part of the Bear Canyon Mine permit transfer from C.W. Mining Company to Hiawatha Coal Company, Inc. - we need to have a Revised Reclamation Agreement and Surety Bond Rider prepared.

Attached please find Exhibit "D" (Stipulation to Revise Reclamation Agreement). This form simply explains the revisions to the Reclamation Agreement - which includes a revision to the Officers and Agents of Bear Canyon Mine and a Surety Rider changing the Principal from C.W. Mining Company to Hiawatha Coal Company, Inc.

Also, attached is Exhibit "E" (Revised Officers and Agents). Please complete the information to reflect the new Company Officers, etc.

Please provide a Surety Rider from Lyndon Property Insurance Company changing the name of the Principal from C.W. Mining Company dba Co-Op Mining Company to Hiawatha Coal Company, Inc.

In addition, please have the Affidavits of Qualification completed for the Permittee and the Surety Company.

I have attached the original Reclamation Agreement for Bear Canyon Mine just for your information. The above-mentioned riders will be attached to and form part of this original agreement.

If you have any questions, please do not hesitate to call me.

Thank you,  
Angela  
Bond Coordinator  
[angelanance@utah.gov](mailto:angelanance@utah.gov)  
(801) 538-5264

Permit Number: ACT/015/025  
Date Original Permit Issued: 10/85  
Effective Date of Agreement: \_\_\_\_\_

**STATE OF UTAH**  
**DEPARTMENT OF NATURAL RESOURCES**  
**DIVISION OF OIL, GAS AND MINING**  
355 West North Temple  
3 Triad Center, Suite 350  
Salt Lake City, Utah 84180-1203  
(801) 538-5340

**COAL RECLAMATION AGREEMENT**  
--oo00oo--

For the purposes of this RECLAMATION AGREEMENT the terms below are defined as follows:

"PERMIT": (Mine Permit No.) ACT/015/025 (County) Emery

"MINE": (Name of Mine) Bear Canyon Mine

"OPERATOR": Co-Op Mining Company

"PERMITTEE": (Company or Name) Co-Op Mining Company  
(Address) 53 West Angelo Avenue  
Salt Lake City, Utah 84115

"PERMITTEE'S REGISTERED AGENT": (Name) Mr. Wendell Owen  
(Address) P.O. Box 1245 Huntington, Utah 84528  
(Phone) (801) 381-2450

"COMPANY OFFICERS": Earl W. Stoddard  
D.J. Sanders  
Jon Gustafson

"BOND TYPE": (Form of Bond) Irrevocable Standby Letter of Credit  
"BOND": (Bond Amount-Dollars) \$290,000 (two hundred ninety thousand)  
(Escalated Year-Dollars) \_\_\_\_\_

"INSTITUTION": (Bank or Agency) Capitol City Bank

"POLICY OR ACCOUNT NUMBER": No. 1055

"LIABILITY INSURANCE": (Exp.) \$1,000,000 occurrence/\$2,000,000 aggregate  
(Insurance Company) (exp 1/1/94) Homestead Insurance Co.

"STATE": Utah (Department of Natural Resources)

"DIVISION": Division of Oil, Gas and Mining

"DIVISION DIRECTOR": Dianne R. Nielson

**EXHIBITS:**

**Revision Dates**

"PERMIT AREA"	Exhibit "A"	_____	_____	_____
"BONDING AGREEMENT"	Exhibit "B"	_____	_____	_____
"LIABILITY INSURANCE"	Exhibit "C"	_____	_____	_____
"STIPULATION TO CHANGE BOND"	Exhibit "D"	_____	_____	_____

## RECLAMATION AGREEMENT

This RECLAMATION AGREEMENT, hereinafter "AGREEMENT", is entered into by the Permittee.

WHEREAS, on \_\_\_\_\_ (Date of Permit Approval), the Division of Oil, Gas and Mining approved the Permit Application Package, hereinafter "PAP", submitted by Co-Op Mining Company, hereinafter "PERMITTEE"; and

WHEREAS, the PAP, as amended or revised in conjunction with the Act and the Rules, constitutes the approved plan for reclamation of the Surface Disturbance; and

WHEREAS, in the conduct of reclamation operations within the Permit Area described in the PAP, the Permittee is obligated by Title 40-10-1, et seq., Utah Code Annotated (1953, as amended), hereinafter "Act", to file and maintain with the Division a bond ensuring the performance of the reclamation obligations in the manner and by the standards set forth in the PAP, the Act, and the State of Utah Division of Oil, Gas and Mining Rules pertaining to Coal Mining and Reclamation Activities, hereinafter "Rules"; and

WHEREAS, the Permittee is ready and willing to file the bond in the amount and in a form acceptable to the Division and to perform all obligations imposed by the Division pursuant to applicable laws & regulations relating to the reclamation within the Permit Area.

NOW, THEREFORE, the Division and the Permittee agree as follows:

1. The provisions of the Act and the Rules are incorporated by reference herein and hereby made a part of this Agreement. Provisions of the Act or Rules shall supersede conflicting provisions of this Agreement.
2. The Permittee agrees to comply with all terms and provisions of the PAP, the Act and the Rules, including the reclamation of all areas disturbed by surface coal mining and reclamation operations despite the eventuality that the cost of actual reclamation exceeds the bond amount.
3. The Permittee agrees to provide a legal description of the Permit Area including the number of acres approved by the Division to be disturbed by surface mining and reclamation operations within the Permit Area. The description is attached as Exhibit "A", and is incorporated by reference and shall be referred to as the "Permit Area".
4. The Permittee agrees to provide a bond to the Division in the form and amount acceptable to the Division ensuring the performance of the reclamation obligations in the manner and by the standards set forth in the PAP, the Act and the Rules. Said bond is attached as Exhibit "B" and is incorporated by reference.

5. The Permittee agrees to maintain in full force and effect the public liability insurance policy submitted as part of the permit application. The Division shall be listed as an additional insured on said policy.
6. In the event that the Surface Disturbance is increased through expansion of the coal mining and reclamation operations or decreased through partial reclamation, the Division shall adjust the bond as appropriate.
7. The Permittee does hereby agree to indemnify and hold harmless the State of Utah and the Division from any claim, demand, liability, cost, charge, or suit initiated by a third party as a result of the Permittee or Permittee's agent or employees failure to abide by the terms and conditions of the approved PAP and this Agreement.
8. The terms and conditions of this Agreement are non-cancelable until such time as the Permittee has satisfactorily, as determined by the Division, reclaimed the Surface Disturbance in accordance with the approved PAP, the Act, and the Rules. Notwithstanding the above, the Division may direct, or the Permittee may request and the Division may approve, a written modification to this Agreement.
9. The Permittee may, at any time, submit a request to the Division to substitute the bonding method. The Division may approve the substitution if the bond meets the requirements of the Act and the Rules, but no bond shall be released until the Division has approved and accepted the replacement bond.
10. Any revision in the Surface Disturbance, the bond amount, the bond type, the liability insurance amount coverage, and/or the liability insurance company, or other revisions affecting the terms and conditions of this Agreement shall be submitted on the form entitled "Stipulation to Revise Reclamation Agreement" and shall be attached hereto as Exhibit "D" (other exhibits as appropriate).
11. This Agreement shall be governed and construed in accordance with the laws of the state of Utah. The Permittee shall be liable for all reasonable costs incurred by the Division to enforce this agreement.
12. Any breach of the provisions of this Agreement, the Act, the Rules, or the PAP may, at the discretion of the Division, result in an order to cease coal mining and reclamation operations, revocation of the Permittee's permit to conduct coal mining and reclamation operations and/or forfeiture of the bond.

13. In the event of forfeiture, the Permittee agrees to be liable for additional costs in excess of the bond amount which may be incurred by the Division in order to comply with the PAP, the Act, and the Rules. Any excess monies resulting from the forfeiture of the bond amount upon compliance with this contract shall be refunded to the appropriate party.
14. Each signatory below represents that he/she is authorized to execute this Agreement on behalf of the named party. Proof of such authorization is provided on a form acceptable to the Division and is attached hereto.

SO AGREED this 13<sup>th</sup> day of January, 19 93

**STATE OF UTAH:**

Lowell P. Braxton

Lowell P. Braxton, Acting Director  
Division of Oil, Gas and Mining

**PERMITTEE:**

Earl W. Stoddard

Company Officer - Position

\_\_\_\_\_  
Company Officer - Position

**NOTE:**

An Affidavit of Qualification must be completed and attached to this form for each authorized agent or officer. Where one signs by virtue of Power of Attorney for a company, such Power of Attorney must be filed with this Agreement. If the Principal is a corporation, the Agreement shall be executed by its duly authorized officer.

## **EXHIBIT “D”**

### **Stipulation to Revise Reclamation Agreement (Federal)**

Permit Number: \_\_\_\_\_  
Effective Date: \_\_\_\_\_  
Bond Number: \_\_\_\_\_

**COAL**  
**STIPULATION TO REVISE RECLAMATION AGREEMENT**  
--ooOOoo--

This **STIPULATION TO REVISE RECLAMATION AGREEMENT** entered into by and between the **PERMITTEE** and **DIVISION** incorporates the following revisions or changes to the **RECLAMATION AGREEMENT**: (Identify and Describe Revisions below)

Attached, as Exhibit "E", are the revised Officers and Agents of Bear Canyon Mine. Exhibit "E" shall be incorporated as part of the original Reclamation Agreement subject to clearance through the Applicant Violator System (AVS).

Also, to be attached to and form part of Bond No. L-0601-C/015/025 is a Surety Rider changing the Principal from C.W. Mining Company dba Co-Op Mining Company to Hiawatha Coal Company, Inc.

In accordance with this **STIPULATION TO REVISE RECLAMATION AGREEMENT**, the following Exhibits have been replaced by the **PERMITTEE** and are approved by the **DIVISION**.

- \_\_\_\_\_ Replace the Reclamation agreement in its entirety.
- \_\_\_\_\_ Replace Exhibit "A"- bonded area.
- X   Replace Exhibit "B"- bonding agreement  
(Add Surety Rider changing Principal to Hiawatha Coal Company, Inc.)
- \_\_\_\_\_ Replace Exhibit "C"- liability insurance

The bonding amount is revised from \$ \_\_\_\_\_ to \$ \_\_\_\_\_.

The bonding type is changed from \_\_\_\_\_ to \_\_\_\_\_.

The surface disturbance is revised from \_\_\_\_\_ acre to \_\_\_\_\_ acres.

The expiration date is revised from \_\_\_\_\_ to \_\_\_\_\_.

The liability insurance carrier is changed from \_\_\_\_\_ to \_\_\_\_\_.



The amount of insurance coverage for bodily injury and property damage is changed  
from  
\$ \_\_\_\_\_ to \$ \_\_\_\_\_.

**IN WITNESS WHEREOF,** \_\_\_\_\_ the **PERMITTEE** has hereunto set  
its signature and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
**PERMITTEE**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**ACCEPTED BY THE STATE OF UTAH** this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
**Director,**  
Division of Oil, Gas and Mining

**NOTE:** An **Affidavit of Qualification** must be completed and attached to this form for each authorized agent or officer. Where one signs by virtue of Power or Attorney of a company, such Power of Attorney must be filed with this Agreement. If the **PERMITTEE** is a corporation, the Agreement shall be executed by its duly authorized officer.

## **EXHIBIT “E”**

**Revised Officers and Agents  
(Federal)**

Permit Number: C/015/0025  
Effective Date: \_\_\_\_\_  
Bond Number: L-0601-C/015/025

**Exhibit "E"**  
**REVISED OFFICERS AND AGENTS**  
--ooOOoo--

**"PERMIT":** (Mine Permit Number) C/015/0025 (County) Emery

**"MINE":** (Name of Mine) Bear Canyon Mine

**"OPERATOR":** Hiawatha Coal Company, Inc.

**"PERMITTEE":** (Company Name and Address)  
Hiawatha Coal Company, Inc  
5550 West Bear Canyon Road  
Huntington, Utah 84528  
(435) 687-5777

**"PERMITTEE'S REGISTERED AGENT":**  
Elliott Finley  
5550 West Bear Canyon Road  
Huntington, Utah 84528  
(435) 687-5777

**"COMPANY OFFICERS":**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**"BOND TYPE":** (Form of Bond) Surety Bond

**"BOND":** (Amount) \$1,825,000

**"INSTITUTION":** (Bank or Agency) Lyndon Property Insurance Company

**"POLICY OR ACCOUNT NUMBER":** 1-0601-C/015/025

**"LIABILITY INSURANCE":** AIG (expires 01/01/09)

**"STATE":** Utah (Department of Natural Resources)

**"DIVISION":** Division of Oil, Gas and Mining

**"DIVISION DIRECTOR":** John R. Baza

**AFFIDAVITS  
OF  
QUALIFICATION**

Bond Number \_\_\_\_\_

**AFFIDAVIT OF QUALIFICATION  
DIRECTOR**

**--ooOOoo--**

John Baza, being first duly sworn under oath, deposes and says that he is the  
Director for the Division of Oil, Gas and Mining, Department of Natural Resources, State of  
Utah; and that he is duly authorized to execute and deliver the foregoing obligations; and that said  
Director is authorized to execute the same by authority of laws on behalf of the State of Utah.

\_\_\_\_\_  
John Baza  
Director, Division of Oil, Gas and Mining

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss:

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_, 20 \_\_\_\_.

Bond Number \_\_\_\_\_

**AFFIDAVIT OF QUALIFICATION  
PERMITTEE**

--ooOOoo--

I, \_\_\_\_\_, being first duly sworn under oath, deposes and says that he/she is  
the (officer or agent) \_\_\_\_\_ of \_\_\_\_\_;  
and that he/she is duly authorized to execute and deliver the foregoing obligations; and that said  
PERMITTEE is authorized to execute the same and has complied in all respects with the laws of  
Utah in reference to commitments, undertakings and obligations herein.

\_\_\_\_\_  
(Signed)

Name - Position

Attest: \_\_\_\_\_  
Secretary of the Corporation

STATE OF \_\_\_\_\_ )

) ss:

COUNTY OF \_\_\_\_\_)

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_, 20 \_\_\_\_.

Bond Number \_\_\_\_\_

## AFFIDAVIT OF QUALIFICATION INSTITUTION (Bank or Agency)

--000000--

I, \_\_\_\_\_, being first duly sworn under oath, deposes and says that he/she is the (officer or agent) \_\_\_\_\_ of \_\_\_\_\_; and that he/she is duly authorized to execute and deliver the foregoing obligations; and that said INSTITUTION (Bank or Agency) is authorized to execute the same and has complied in all respects with the laws of Utah in reference to commitments, undertakings and obligations herein.

(Signed)

Name - Position

Attest: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

) SS:

COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Notary Public**

**My Commission Expires:**

\_\_\_\_\_, 20\_\_\_\_.

Bond Number \_\_\_\_\_

# AFFIDAVIT OF QUALIFICATION SURETY COMPANY

--000000--

I, \_\_\_\_\_, being first duly sworn under oath, deposes and says that he/she is the (officer or agent) \_\_\_\_\_ of \_\_\_\_\_; and that he/she is duly authorized to execute and deliver the foregoing obligations; and that said SURETY COMPANY is authorized to execute the same and has complied in all respects with the laws of Utah in reference to becoming sole surety upon bonds, undertakings and obligations herein.

(Signed)  
Surety Company Officer - Position

Attest:

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss:

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Notary Public**

**My Commission Expires:**

\_\_\_\_\_, 20\_\_\_\_.



Bond Number \_\_\_\_\_

## **P O W E R   O F   A T T O R N E Y**

Bond Number \_\_\_\_\_

**POWER OF ATTORNEY**

**--ooOOoo--**

The \_\_\_\_\_ (Corporation), having its principal office in \_\_\_\_\_ (Location), does hereby make, constitute and appoint \_\_\_\_\_ [Attorney(s)], as its true and lawful Attorney(s)-in-fact in their separate capacity, if more than one is named above, to make, execute, sign, seal and deliver for and on its behalf as surety and as its act and deed (without power of re-delegation) any and all bonds and undertakings and other writings obligatory in the nature thereof provided in the amount of no one bond or undertaking exceeding (\$)\_\_\_\_\_.

The execution of such bonds and undertakings shall be as binding upon said \_\_\_\_\_ (Corporation) as fully and to all intents and purposes as if the same had been duly executed and acknowledged by its regularly elected officers.

IN WITNESS THEREOF, this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
President

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_, 20 \_\_\_\_.

Attest:

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

) ss:

Bond Number \_\_\_\_\_